

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

1:12-cv-360

Ralph O'Neil Starnes and Betty Starnes,)
spouse,)

Plaintiffs,)

vs.)

A.O. Smith Corporation;)

Air & Liquid Systems Corporation (sued as)

successor-by-merger to Buffalo Pumps, Inc.),)

American Cast Iron Pipe Company d/b/a)

American Darling Value (sued as successor to)

Darling Valve & Mfg. Co. f/k/a Darling)

Pump & Mfg Co., Ltd);)

Blackmer Pump Company;)

Burnham LLC f/k/a Burnham Corporation;)

BW/IP International, Inc., sued individually)

and as successor-in-interest to Byron)

Jackson Pump Company;)

Carrier Corporation (sued individually and)

d/b/a Bryant Heating & Cooling Systems);)

CBS operation (a Delaware Corporation) f/k/a)

Viacom, Inc. (sued as successor-by-merger)

to CBS Corporation (a Pennsylvania)

Corporation f/k/a Westinghouse Electric)

Corporation);)

Cleaver-Brooks, Inc. f/k/a Aqua-Chem, Inc.,)

d/b/a Cleaver-Brooks Division;)

Clow Valve Company;)

Converse, Inc.;)

Crane Co. (sued individually and as successor-)

in-interest to Chapman Valve Company,)

Cochrane Corporation, and Deming)

Pump Company);)

Crane Environmental, Inc. (sued individually)

and as successor-in-interest to Cochrane)

Corporation);)

Crosby Valve, Inc.;)

Crown Boiler Company f/k/a Crown)

ORDER

Industries, Inc.;)
Crown Cork & Seal Company, Inc. (sued)
individually and as successor-in-interest to)
Mundet Cork Company);)
Cyprus Amax Minerals Company (sued as)
successor to Sierra Talc Company and)
United Talc Company);)
Dover Corporation (sued as successor to)
Blackmer Pump Co.);)
Elliott Turbo Machinery Company a/k/a)
Elliott Company;)
Fisher Controls International, LLC)
Flowserve Corporation f/k/a The Duriron)
Company, Inc. (sued as successor-by-)
merger to Durco International);)
Flowserve US, Inc. (sued as successor to Byron)
Jackson Pump Company);)
FMC Corporation (sued individually and as)
successor-in-interest to Peerless Pump)
Company);)
Foster Wheeler Energy Corporation;)
Gardner Denver, Inc.;)
General Electric Company;)
Georgia-Pacific, LLC, f/k/a Georgia-Pacific)
Corporation;)
The Goodyear Tire & Rubber Company (sued)
individually and as successor-in-interest to)
Durabla Manufacturing Company);)
Goulds Pumps, Inc.;)
Grinnell LLC d/b/a Grinnell Corporation;)
Hanson Aggregates West, Inc. (sued individually)
and as successor-in-interest to Kaiser Cement)
Corporation and/or Kaiser Gypsum)
Company, Inc.);)
Hanson Building Materials America, Inc. (sued)
individually and/or as successor-in-interest)
to Hanson Aggregates West, Kaiser Cement)
Corporation and/or Kaiser Gypsum)
Company, Inc.);)
Hanson Permanente Cement, Inc. f/k/a Kaiser)
Cement Corporation (sued individually and)
as successor-in-interest to Kaiser Gypsum)
Company, Inc.);)
Henry Pratt Company, LLC, d/b/a Henry Pratt)
Company;)

Honeywell International, Inc;)
 IMO Industries, Inc. (sued individually and as)
 successor-in-interest to Delaval Turbine, Inc.;)
 Ingersoll Rand Company;)
 Invensys Systems, Inc. (sued individually and)
 as successor-in-interest to The Foxboro)
 Company and to Robertshaw Controls)
 Company d/b/a Fulton Sylphon Valves);)
 ITT Corporation f/k/a ITT Industries, Inc. (sued)
 individually and as successor-in-interest to)
 Bell & Gossett, to McDonnell & Miller, and)
 to Foster Engineering Company);)
 Jerguson Gage & Valve Company;)
 John Crane, Inc.;)
 Johnston Boiler Company;)
 Kaiser Gypsum Company, Inc.;)
 Kohler Co.;)
 Laars Heating Systems Co.;)
 McWane Inc. (sued individually and as)
 successor-in-interest to Kennedy Valve)
 Manufacturing Company, Kennedy Valve)
 Inc, and Kennedy Valve Company;)
 Metropolitan Life Insurance Company;)
 O.C. Keckley Company (sued individually and)
 as successor-in-interest to Klipfel Valves, Inc.);)
 Oakfabco, Inc. (sued individually and as)
 successor-in-interest to Kewanee Boiler)
 Corporation);)
 Peerless Industries, Inc.;)
 Pfizer, Inc.;)
 Rheem Manufacturing Company (sued)
 individually and d/b/a Ruud Manufacturing)
 Company);)
 Riley Power, Inc. f/k/a Riley Stoker)
 Corporation and D.B. Riley, Inc.,;)
 Robertshaw Controls Co d/b/a Fulton Sylphon)
 Valves;)
 R.T. Vanderbilt Company, Inc. (sued)
 individually and as successor-in-interest to)
 International Talc Company);)
 Sears, Roebuck and Co.;)
 Spirax Sarco, Inc.;)
 Sterling Fluid Systems (USA), LLC f/k/a)
 Peerless Pump Co.;)
 Trane US, Inc. f/k/a American Standard)

Companies (sued individually and as successor-)
in-interest to American Radiator Company)
a/k/a Ideal Boiler);)
Viad Corporation f/k/a The Dial Corporation)
(sued individually and as successor-in-interest)
to Griscom-Russell Company);)
Viking Pump, Inc.;)
Watts Water Technologies, Inc. (sued as)
successor to Powers Regulator Company, Inc.);)
Weil-McLain, a division of the Marlye-Wylain)
Company;)
Weir Valves & Controls USA, Inc. f/k/a Atwood)
& Morrill;)
Xylem, Inc. (sued individually and as successor-)
in-interest to Bell & Gossett);)
Yarway Corporation (sued individually and as)
successor-in-interest to Gimpel Corporation);)
Zurn Industries, LLC (sued individually and as)
successor-in-interest to Zurn Industries, Inc.,)
and also as successor to Erie City Iron Works)
d/b/a Keystone Boiler Works, Inc.))
)
Defendants.)
)

THIS MATTER is before the Court *sua sponte* to ascertain subject matter jurisdiction. The Plaintiffs filed their Complaint (#1) against Defendants alleging jurisdiction based upon diversity. The Plaintiffs thereafter filed an Amended Complaint (#199) also alleging jurisdiction by way of diversity. In the Complaint, Plaintiffs allege that Defendant Henry Pratt Company, LLC is a company incorporated under the laws of the State of Illinois. Plaintiffs allege members of Henry Pratt Company, LLC and states the place of residence of the members except for the member Randy Burger.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4th Cir. 2001);

Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), *certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C. §1447(c) (“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.”). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). The Plaintiffs have not disclosed in their Amended Complaint, the place of residence of all of the members of Henry Pratt Company, LLC and will be required to do so.

ORDER

IT IS, THEREFORE, ORDERED that on or before **September 6, 2013**, the Defendant Henry Pratt Company, LLC shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of Henry Pratt Company, LLC and for any such constituent members or partners that is a limited liability company or partnerships shall identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: August 16, 2013



Dennis L. Howell
United States Magistrate Judge

